

Appl. No. 10/671,359
Amdt. dated March 20, 2007
Reply to Office Action of December 26, 2006

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REMARKS/ARGUMENTS

In response to the Examiner's Office Action of 26 December 2006, Applicant is herein presenting his considerations and response to the Examiners comments. Referring to the objections under sections 112 and 101 and the general claim objections listed at the bottom of page 2 and continued through page 3 of the Examination Report, Applicant has made amendments to the claims. These amendments include the removal of step "numerals" in the "system" claims to suit the Examiner --- though in many years of practice, the undersigned has never received any objection to identifying clauses in a claim whether a system claim or method claim was involved. Thus, to suit the preferences of the Examiner, the "clause" identification in the "system" claims has been removed.

Moreover, with regards to claims 12 and 14 and claims 13 and 15, Applicant has entered amendments to more clearly define the subject matter of the claim. Claims 16, 17, and 18 have been cancelled and new claims 19 and 20 have been added. Applicant submits that claims are now in suitable order and that all formality objections have been disposed of.

Turning to the substantive objections taken to the claims, Examiner contends that claims 1 - 3, 6 - 8, and 10 - 17 are anticipated by Krychniak (US Patent 6,192,357). Applicant would now traverse this contention.

Applicant believes there is no need to reiterate the underlying inventive concept of the invention. However, Applicant wishes to point out the additional amendments made to the independent claims to more clearly define the invention. In particular,

Applicant wishes to focus the Examiner's attention to the amendments to independent claims 1, 2, 3, 6, 7 and 8. In particular, the Examiner's attention is drawn to the fact that the amended claims now refer to:

- a. the defining of a table (one table) which holds aggregated information; (page 5, lines 1-5), (page 13, lines 15-29).
- b. the defining (or clarification) of a conceptual entity (which is described and finds clear support in Applicant's specification at page 13, lines 15-29);

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- c. aggregated data values being obtained by performing a single read operation on the one table. (see Spec page 20, line 4), (see Spec page 13, line 28).

Applicant submits that amended claims 1, 2, 3, 6, 7 and 8 are clearly novel and non-obvious when compared to Krychniak. Krychniak fails to teach the aggregation of information in the manner now clearly defined in the abovementioned independent claims.

Krychniak is wholly silent on the aggregation of information in a manner that brings together data which defines a conceptual entity (e.g. a 'real-world' object, such as a customer), and storing said data in a single table, so that the information may be extracted utilising a single read operation.

Krychniak describes the aggregation of key data, which represents the aggregation of 'key' columns in each of a plurality of databases. However, key columns, as stated at column 1, lines 31-33, are "arbitrary identifiers given to the entities in the dimension to uniquely identify them." Therefore, utilising the system of Krychniak, a user would not be aggregating data that defines a conceptual entity (such as, for example, a customer), but rather Krychniak, is simply aggregating key data.

Therefore, independent claims 1, 2, 3, 6, 7 and 8 must be considered novel and non-obvious when compared to Krychniak.

Applicant also traverses the objection raised by Examiner under 35 USC Section 103: Examiner states that claims 4 (claim 4 is canceled now and combined with claim 1) and 5 are obvious when Krychniak is combined with Prabhakaran. Examiner asserts that "Krychniak discloses a need (?) for Prabhakaran's system when Krychniak's system needs to determine how the database handles a query".

However, Krychniak makes no such assertion. Krychniak, at column 2, lines 23-37 (as cited by Examiner), discusses the relative efficiency of two different query types, but has no teaching that the term 'efficiency' is related to read/write ratios. Indeed, the entire teaching of Krychniak is directed to the reading of queries and the optimization of 'read' queries. There is absolutely no discussion in Krychniak

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of improving efficiency by modifying the manner in which queries are written to the database.

Therefore, a person skilled in the art, faced with the system of Krychniak, would not consider determining read/write ratios, as there is no requirement in Krychniak to determine read/write ratios.

Examiner is reminded that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. See *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430.

Notwithstanding the lack of motivation to combine, Applicant also submits that Prabhakaran does not disclose the step of "comparing said initial read/write ratio of said database to a critical read/write ratio". Examiner refers to column 6, lines 31-47 and step 330 of Figure 3. Neither reference refers to the step of "comparing" an initial read/write ratio to a critical read/write ratio. Both references by Examiner are to the step of generating read and write operations corresponding to the read and write ratios set up by a user.

It is not clear to Applicant how the statement in Prabhakaran relates to Applicant's defined invention, as Applicant is concerned with comparing two quantities to determine whether further action should be undertaken, whereas Prabhakaran is concerned with generating read and write operations as defined by the "read and write ratio set in step 310" (see Column 6, lines 31-47).

Furthermore, Examiner also contends that Column 6, lines 44-47 of Prabhakaran discloses the feature of performing the method steps of Applicant's invention (as defined in Applicant's amended claim 1 which includes claim 4 now), if the initial read/write ratio is greater than a critical read/write ratio. This is certainly not the case.

Again, Applicant strongly argues that no such feature is disclosed by Prabhakaran.

Column 6, lines 44-47 of Prabhakaran states "By having a strong correlation between the stress test and production environments, the test results would be highly indicative of the production behaviour of the database storage system". It is not seen how this feature could read or teach onto Applicant's claimed feature.

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The Examiner has indicated that he equates Applicant's read/write ratio to Prabhakaran's "desired ratio" in the first step 310 of his Fig. 3.

Applicant is not involved in such a "desired ratio".

Further, Examiner says he "equates" Applicant's "critical read/write ratio" to Prabhakaran's "approximate ratio" to simulate actual use of a database (col. 5, lines 60-65).

The statement of Prabhakaran "to simulate" is just a general term and does not teach Applicant's claim 5 and claim 9 which specifically teach the development of read/write ratios.

There is no basis for Examiner to "equate" Prabhakaran's situation to that of Applicant.

And as noted by Examiner, Prabhakaran teaches a system for stress testing databases --- and not to increase database performance. Thus neither Krychniak and Prabhakaran combined can teach using read/write ratios to increase database performance.

Therefore, Applicant strongly restates his position that the disclosure of Prabhakaran does NOT teach nor read upon Applicant's claimed invention.

As claims 1 and 5 are clearly non-obvious in view of Krychniak in view of Prabhakaran, Applicant also thoroughly rejects the notion that Szendy (US 6,681,309) describes the use of a 'critical read/write ratio' to increase performance in the database. Szendy makes a generic statement as to the fact that the ratio of reads to writes may be used to "optimize the use of the system storage" (Column 3, lines 27-28). This is a generic statement which simply describes something that is known in the art. However, there is absolutely no disclosure of the determination of a critical read/write ratio to be compared to an initial read/write ratio..

Examiner has not indicated a reference which discloses the determination and utilization of a critical read/write ratio as taught by Applicant. Both Prabhakaran and Szendy are silent on the use of a critical read/write ratio, and therefore it is Applicant's contribution which provides value to the invention. Further, there is no motivation to take three references and combine them to reconstitute Applicant's invention.

It has been set forth that the motivating suggestion must be explicit, as was decided in the seminal case of Winner International Royalty Corp. v. Wang, No. 96-2107, 48 USPQ2d 1139 (D.C.D.C. 1998), where the Court held:

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"... invention cannot be found obvious unless there was some explicit teaching or suggestion in art to motivate one of ordinary skill to combine elements so as to create same invention." [at 1140].

"... there must have been some explicit teaching or suggestion in the art to motivate one of even ordinary skill to combine such elements so as to create the same invention." [at 1144]. (Underlines added).

As a further legal citation, in the case of *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d, p.1044, and also 5USPQ.2d p.1434 (Fed.Cir. 1988), the Federal Court:

Where prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself. Something in the prior art as a whole must suggest desirability, and thus the obviousness of making the combination. It is impermissible to use the claims as a frame and the prior art references as a mosaic to piece together a facsimile of the claimed invention. (Underlines added).

As a stable legal principle, it is understood that an invention and its claim elements must be considered as a whole in their entirety. Thus Applicant asks the Examiner to embrace this legal consideration regarding Applicant's claims and consequently provide a timely Notice of Allowance therefor.

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Respectfully submitted,
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